

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK**

GRADIENT ENTERPRISES, INC.,

Plaintiff,

NOTICE OF MOTION

vs.

Civ. Action No.: 10-CV-6712 (DGL)

SKYPE TECHNOLOGIES S.A. and SKYPE, INC.,

Defendants.

PLEASE TAKE NOTICE that, upon the accompanying memorandum of law in support of Plaintiff Gradient Enterprises, Inc.'s motion to dismiss, dated May 17, 2012, the Declaration of Donald W. O'Brien, Jr., Esq., dated May 17, 2012, and the pleadings in this action, the undersigned will move this Court at a time and date to be set at the Court's convenience for an order, pursuant to Fed. R. Civ. P. 12(b)(6), dismissing the counterclaim of Defendants, Skype Technologies S.A. and Skype, Inc., in its entirety for failure to state a claim upon which relief can be granted, together with such other and further relief as the Court may deem just and proper.

PLEASE TAKE FURTHER NOTICE that, pursuant to Local Rule 7(a)(1), Plaintiff reserves the right to file and serve reply papers.

DATED: May 17, 2012
Rochester, New York

WOODS OVIATT GILMAN LLP

By: _____


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